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IMPLEMENTATION OF THE INTERNATIONAL DRUG CONTROL CONVENTIONS

OTHER MATTERS ARISING UNDER THE INTERNATIONAL DRUG CONTROL CONVENTIONS

Report of the meeting of the Working Group on Maritime Cooperation, held at Vienna from 19 to 23 September 1994 and from 20 to 24 February 1995

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* E/CN.7/1995/1.

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RECOMMENDATIONS

The observance of the principles of international law, in particular those concerning the full respect for sovereignty and territorial integrity, and the principles of the international law of the sea regime, should govern international cooperation in the fight against illicit traffic by sea in narcotic drugs and psychotropic substances.

I. EXCHANGE OF INFORMATION

1. Each State should maintain a register containing information on vessels flying its flag and is urged to comply with the provisions of article 17, paragraph 7, of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/CONF.82/15 and Corr.2), concerning the designation of an authority or authorities to receive or respond to requests made pursuant to that article. The authority or authorities designated by that State must have ready access to the information in the register.

2. Governments should improve and streamline channels for direct communication between competent authorities in order to facilitate and simplify the process of requesting and responding to requests made pursuant to article 17 of the 1988 Convention. In particular, States should:

(a) Ensure an ongoing exchange of general information about drug trafficking;
(b) Ensure the quality and accuracy of information;
(c) Ensure that information is transmitted speedily;
(d) Maintain confidentiality.

A. Standard request for boarding

3. After alternatives, including controlled delivery, have been explored and exhausted, a State requesting from the flag State authority to board a vessel may use the standard format presented below. The recommended action request should be viewed as neither exhaustive nor binding in terms of authorization. The flag State may request additional information. The flag State should make every effort to respond either affirmatively or negatively to the intervening State on the basis of the information thus provided.

Action request

1. Identification of the requesting party, including the authority issuing the request and the agency charged with taking measures
2. Vessel description, including name, flag and port of registration and any other information regarding the vessel
3. Known details concerning voyage and crew
4. Sighting information and weather report
5. Reason for request (articulation of the circumstances supporting the intervention)
6. Intended action
7. Any other relevant information

8. Action requested by the intervening State (including confirmation of vessel registry and permission to board and search, if applicable), together with any time-limits.

States may also consider using the guidelines for the exchange of general information on vessels suspected of illicit drug trafficking, which are annexed to the present recommendations.

4. In order to enhance the exchange of information through existing global channels such as the International Criminal Police Organization (ICPO/Interpol) and the World Customs Organization (also called the Customs Co-operation Council), those organizations should be requested to provide to the United Nations International Drug Control Programme (UNDCP) information on their mechanisms and networks. Based on that information UNDCP should be invited to prepare a guidebook for use by States.

5. States should make every effort to computerize a detailed set of data on vessels in their registry in order to facilitate identification of vessels flying their flag.

6. States should identify, to the extent possible, and disseminate in a timely fashion to other States directly or through ICPO/Interpol, the World Customs Organization, Mar-Info or other organizations or communication networks operating or involved in this field, those indicators that, in their judgement, may assist in the identification of vessels that are involved, or may soon become involved, in illicit drug trafficking.

II. TECHNICAL ASSISTANCE

7. More States should contribute financial and other resources to the operational activities of UNDCP to enable it to respond, in cooperation with relevant international bodies, to requests from Member States for technical assistance, including training, in order to permit those Member States to better implement article 17 of the 1988 Convention.

8. Each State may request technical assistance, including training, in accordance with articles 9 and 10 of the 1988 Convention, to upgrade, improve or install a computerized data system for vessels that are in its registry, or that fly its flag, in order to improve the accuracy and speed of information exchange. Such requests may be channelled through UNDCP, which may transmit them to States prepared to provide financial and other support.

9. UNDCP should be requested to convene, under its auspices, a meeting of experts from Governments, with due regard to the principle of equitable geographical distribution, and observers from international organizations, with expertise in the field of maritime law enforcement for the implementation of article 17 of the 1988 Convention, with a view to:

(a) Development of a training programme introducing minimum standards and safeguards in the conduct of stopping, boardings and searches at sea, in accordance with the international law of the sea;

(b) Formation of multinational mobile training teams to carry out such training programmes in States that so request;

(c) Development of training materials on techniques and methods for the inspection of vessels and establishment of timetables for their dissemination.

III. LEGAL ISSUES

A. Exercise of jurisdiction over vessels

10. States should take the necessary measures to ensure that they effectively exercise jurisdiction over ships flying their flags, in accordance with the principles of the international law of the sea.

11. States are urged to establish the jurisdictions described in article 4 of the 1988 Convention and in particular the jurisdiction contained in paragraph 1, subparagraph (b)(ii), of that article.

12. States are urged to provide information to the Secretary-General, in accordance with article 20 of the 1988 Convention, on the implementation of article 17 of that Convention and, in particular, on any assistance that may be required to facilitate such implementation.

B. Drug trafficking by vessels without nationality

13. States should take, to the fullest extent possible, the necessary measures to ensure, in accordance with international law, the exercise of jurisdiction over drug trafficking offences involving vessels without nationality or those assimilated to them in accordance with international law.

14. States should reach agreement regarding the general minimum safeguards applicable in cases involving the boarding of suspected vessels, taking into account article 17, paragraph 5, of the 1988 Convention.

15. The States concerned should reach an agreement regarding authorized measures that might be taken by the intervening State in relation to a suspicious vessel, such as stopping, boarding, inspection (including the crew, passengers and cargo) and search. Unless otherwise agreed by the States concerned, in accordance with article 17 of the 1988 Convention, the intervening State should be responsible for the procedures for the implementation of such measures and the action and should abide by the conditions and limitations posed by the flag State and established international law.

16. Where a State wishes to intervene it shall request the flag State for authority. The request may include the latest time by which the requesting State will be in a position to intervene effectively and the latest time by which a reply would permit such intervention. The flag State should immediately acknowledge the receipt of the request for authorization and should confirm its status as flag State, indicating the likely period to elapse before a reply will be sent. The request should be answered as soon as possible and wherever practicable within a few hours of receipt of the request.

17. When a request for authorization to board has been made, pursuant to article 17, paragraph 3, of the 1988 Convention, the requesting State should not intervene before receiving explicit authorization from the flag State. Absence of a response can under no circumstances be construed as tacit agreement to such a request.

C. Boarding, search and related procedures

18. In conformity with the provisions of article 17, paragraph 8, of the 1988 Convention, the intervening State should promptly inform the flag State of the results of its intervention. In the event that the suspicion has been confirmed, the two States should agree on the appropriate measures to be taken, with due regard to the principle of the exclusive jurisdiction of the flag State as recognized in international law. The flag State may explicitly waive the exercise of its jurisdiction in favour of the intervening State, on the basis of evidence gathered during the boarding and search.

D. Costs and damages

19. Unless otherwise agreed, costs related to the boarding exercise should be borne by the intervening State. If the intervention is to be undertaken at the request of the flag State or any other State, the costs of the boarding exercise should be borne, unless otherwise agreed, by the State requesting the intervention.

20. When entering into bilateral or regional agreement or arrangements pursuant to article 17, paragraph 9, of the 1988 Convention, States should consider including relevant provisions on, inter alia, damage, loss, injury and compensation that address similar problems in existing international conventions or agreements.

21. Liability for any loss, damages or injury resulting from actions provided for under article 17 of the 1988 Convention should be agreed upon by the States concerned. Unless otherwise agreed, such loss, damages or injury arising from non-compliance with the principles of article 17, paragraph 5, of that convention should be compensated by the intervening State, if negligence or other faults are attributable to the intervening State or if the action has been conducted in a manner unjustified under international law.

IV. Procedures for implementation

22. The technique of controlled delivery usually produces better law enforcement results than does intervention in waters beyond the territorial sea. Where operational circumstances permit, preference should be given to the surveillance of vessels and the increased use of controlled delivery in order to target the crime syndicates involved, rather than to boarding operations. In this case, measures should be considered to ensure the integrity of the illicit shipment and to prevent its possible diversion or transshipment before the vessel arrives at its planned point of destination.

23. Commercial carriers, manning agencies, shipowners, port authorities, trade bodies and other professional groups active in maritime transport should be associated on the basis of voluntary cooperation in the fight against illicit drug traffic. This should be furthered by a number of means, including memoranda of understanding at the national and international levels, appropriate training of law enforcement personnel and programmes to increase the awareness of commercial carrier personnel and other professional groups active in marine transport with regard to illicit drug trafficking.

24. Regional and bilateral agreements and arrangements to enhance international cooperation against illicit drug trafficking by sea should be encouraged. To that end, UNDCP should be invited to develop a model agreement to standardize modalities of such operations and, wherever possible, to facilitate the convening of regional or subregional meetings with a view to concluding such agreements and arrangements.

Annex

GUIDELINES FOR THE EXCHANGE OF GENERAL INFORMATION ON VESSELS SUSPECTED OF ILLICIT DRUG TRAFFICKING, WHICH ARE ANNEXED TO THE PRESENT RECOMMENDATIONS

1. Name
2. Asserted nationality/flag
3. Vessel registration, document number and official number (applicable international number)
4. Type of vessel
5. Radio call-sign
6. Length overall
7. Gross tonnage
8. Owner
9. Ship-broker or agent
10. Home port
11. Purpose of voyage (if commercial, description of cargo where practicable)
12. Last port of call
13. Next port of call
14. Date and time of observation
15. Position of vessel
16. Master's name, nationality and date of birth
17. Names, nationalities and dates of birth of other persons on board, if practical
18. Reasons for suspicion and/or for requested action (if applicable, indication of circumstances that, in the view of the intervening State, support the intervention)
19. Checks already carried out
20. Identity of other authorities called in (if applicable)
21. Period of time for which authorization is requested (if applicable)
22. Alternatives considered (e.g. controlled delivery) (boarding requests only)
23. Relevant information concerning applicable liability regime

I. ORGANIZATION AND OPENING OF THE MEETING

1. The Working Group on Maritime Cooperation, convened by the Executive Director of the United Nations International Drug Control Programme (UNDCP), pursuant to paragraph 2 of Commission on Narcotic Drugs resolution 9 (XXXVII), met at Vienna from 19 to 23 September 1994 and from 20 to 24 February 1995. In that resolution the Commission entrusted the Working Group with a mandate to develop a comprehensive set of principles and specific recommendations to enhance, on a global basis, the implementation of article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/CONF.82/15 and Corr.2), taking note of the recommendations of the Expert Group to Consider the Mandate, Activities and Funding of a Working Group on Maritime Cooperation (E/CN.7/1994/3), which had met at Vienna from 15 to 18 November 1993.

2. The following States were represented as members of the Working Group: Argentina, Australia, Bahamas*, Brazil, Bulgaria, Canada, Chile, China, Colombia, Ecuador, Egypt, France, Germany, Greece, India, Iran (Islamic Republic of), Italy, Japan, Kenya*, Mexico, Netherlands, Nigeria, Pakistan**, Panama, Peru, Poland, Romania, Russian Federation, Spain, Tunisia*, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela. One member of the Working Group, Côte d'Ivoire, did not attend.

3. The following States were represented by observers: Indonesia, Malaysia, Morocco, Norway, Republic of Korea, South Africa, Thailand, Turkey and United Arab Emirates*.

4. The following organizations were represented by observers: Council of Europe, International Maritime Organization**, International Criminal Police Organization (ICPO/Interpol), Baltic and International Maritime Council** and World Customs Organization.

5. The Division for Ocean Affairs and the Law of the Sea of the Secretariat was represented at the first session.

6. UNDCP served as secretariat of the Working Group.

7. The Executive Director of UNDCP, in his opening address to the Working Group, drew attention to its mandate, the challenge posed by illicit drug traffic by sea and the difficulties in countering it.

8. The observer for the Council of Europe informed the Working Group that the Agreement on Illicit Traffic by Sea, Implementing Article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, had recently been concluded by States members of the Council of Europe. He described the status of adherence to the agreement.

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* First session.
** Second session.

9. The Working Group elected the following officers by acclamation:

Chairman:	Tadanori Inomata (Japan)
Vice-Chairmen:	A. Khalek Eltahawy (Egypt) Luigi Lauriola (Italy) Nilton Durán Salas (Chile)
Rapporteurs:	Michael Lekszycki (Poland)* Rodica Balas (Romania)**

10. At its first session, the Working Group based its discussion on the recommendations of the Expert Group to Consider the Mandate, Activities and Funding of a Working Group on Maritime Cooperation, contained in the report of the Expert Group, and a report on the status of international cooperation in implementing article 17 of the 1988 Convention based on information provided by Governments in response to a questionnaire prepared by UNDCP.

11. At the close of its first session, the Working Group agreed that the draft recommendations contained in documents UNDCP/1994/MAR.WP.3/Rev.1, UNDCP/1994/MAR.WP.4/Rev.1 and UNDCP/1994/MAR.WP.6, which had been redrafted following their discussion at that session, would constitute the formal basis for further discussions at its second session. Those documents could not be discussed at the first session because of time constraints. It was agreed that those documents, together with the present report, would be sent to all participants by the Secretariat. Any written comments received from Governments by 1 December 1994 would be collated by UNDCP and submitted to participants, in such form as the Secretariat deemed most appropriate, well in advance of the second session of the Working Group.

12. At its second session, the Working Group had before it a compendium of comments received from Governments on the interim report of the Working Group on maritime cooperation (UNDCP/1994/MAR.WP.5/Rev.1) and related documents (UNDCP/1995/MAR.2) and the recommendations examined at its first session, previously contained in documents UNDCP/1994/MAR.WP.3/Rev.1, UNDCP/1994/MAR.WP.4/Rev.1 and UNDCP/1994/MAR.WP.6, which had been combined into a single document (UNDCP/1995/MAR.WP.2).

II. CONSIDERATION OF SUBSTANTIVE MATTERS

A. Barriers to international cooperation

13. At its first session, the Working Group discussed barriers to international cooperation in countering illicit drug traffic by sea. It considered it necessary to endeavour to strengthen the existing international legal framework, to encourage the universal ratification of the United Nations Convention on the Law of the Sea of 1982 1/ and the 1988 Convention and to promote bilateral and multilateral agreements. The problems identified included the identification of the

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* First session.
** Second session.

proper authority to consent to boarding by a foreign State; the inability to exercise jurisdiction over domestic vessels outside the territorial sea; the inability to exercise jurisdiction over stateless vessels; the concern that damage by the intervening State would not be fully compensated; and the inability to exercise jurisdiction over nationals outside the territorial sea. Another important barrier was the slow processing of requests to board vessels on the high seas owing to the absence of standard boarding procedures, to ineffective record-keeping in vessel registries and to poor communication channels. Furthermore, the maritime law enforcement capability, both within the territorial sea and on the high seas, was often weak, and domestic legal restrictions in some States regarding the use of naval vessels in drug law enforcement operations further limited the interception capabilities of several coastal States. There was a great need for training and material assistance and the establishment of effective communication channels between competent authorities.

B. Examination of specific issues by the Working Group

14. Exchanging quality information in a speedy and accurate manner was emphasized as a prerequisite for effective cooperation in countering illicit traffic by sea. Exchanging accurate information would facilitate the targeting of suspicious vessels and would avoid undue delay in rummaging vessels. With a view to ensuring the quality of information required, it was suggested that consideration should be given to the evaluation and assessment of how information was exchanged and what difficulties were encountered in that regard.

15. The Working Group was informed of the successful operation of the Mar-Info and Yacht-Info information exchange networks, in which 12 countries in western Europe were participating. The networks had led to significant seizures of cocaine, heroin and cannabis. As the networks could not be extended beyond the European region, it was suggested that parallel systems could be established worldwide through the regional intelligence liaison office network of the World Customs Organization (WCO), a network supported by UNDCP. The observer for the WCO informed the Working Group of the functioning and importance of that network in the exchange of operational information between law enforcement agencies. The observer for ICPO/Interpol referred to the protected communication network established between national police agencies for the exchange of criminal information, including illicit drug traffic by sea. The communication network, covering 174 countries, was available to assist members of ICPO/Interpol that were parties to the 1988 Convention in implementing article 17 of that Convention. Mention was also made of the existence of other regional communication networks for the exchange of information concerning illicit drug traffic by sea. It was stated that some States were bound by national and international obligations concerning data protection that might affect the scope and manner of exchange of information.

16. It was considered important for States to improve their capability for collecting and exchanging information related to traffic by sea. It was suggested that the Working Group should indicate the type of information that Governments should collect, as well as the information that should be exchanged to implement article 17. Support was expressed for the recommendation, contained in the report of the Expert Group (E/CN.7/1994/3, para.6), that Governments should improve and streamline channels for direct communication between competent authorities in order to facilitate and simplify the process of

responding to requests made pursuant to article 17 of the 1988 Convention.

17. Some representatives referred to the need for assistance to be provided to their competent authorities in order to upgrade their information exchange capabilities, particularly through the computerization of the list of vessels in each of their registries, as well as particulars on those vessels. That would, in their view, enhance their ability to respond expeditiously to requests to board vessels flying their flags and would improve the exchange of information with other competent authorities. Existing expertise within the United Nations system should be utilized.

18. One speaker, referring to the practice in some States of maintaining "open registers" of vessels, stated that it was important for each of those States to establish a database to record information regarding ships flying its flag, particularly their owners and operators. That would, in her view, facilitate the identification of suspicious vessels.

19. Several representatives referred to the need for technical assistance to enhance the capabilities of their Governments to combat illicit traffic by sea. In particular there was a need for training in all fields related to the implementation of article 17 of the 1988 Convention, particularly in the surveillance of suspicious vessels, procedures for boarding, searching techniques, ship rummaging, and implementation of national legislation. It was suggested that UNDCP should initiate a maritime training programme drawing on all available expertise to meet the needs of States in that field.

20. The Working Group stressed that it was important for all States to effectively exercise jurisdiction over ships flying their flags, in line with the provisions of international law, particularly articles 91, 92 and 94 of the 1982 United Nations Convention on the Law of the Sea, concerning, respectively, the nationality of ships, the status of ships, and the duties of the flag State. It was stated that international cooperation in combating illicit traffic by sea was often hampered by the fact that several States did not exercise their jurisdiction over vessels flying their flags and, accordingly, were not in a position to reply to requests to board such vessels.

21. In order to assist States in effectively implementing article 17 of the 1988 Convention, it was suggested by some representatives that the Working Group should consider recommending the establishment of a mechanism for reporting on the implementation of the provisions of that article. Such a reporting mechanism would enable States to indicate any difficulties that they were having in complying with the provisions of the article. Other representatives felt that an information system, rather than a reporting mechanism, would suffice.

22. There was agreement that the Working Group should deal with the issue of vessels without nationality so as to preclude their operation with impunity. It was considered essential for the Working Group to consider measures to ensure the exercising of jurisdiction over drug trafficking offences by vessels without nationality. Some representatives referred to articles of the Council of Europe Agreement on Illicit Traffic by Sea concerning vessels without nationality as an example of measures that the Working Group might wish to recommend. Other speakers referred to provisions contained in the 1982 United

Nations Convention on the Law of the Sea, as well as to national legislation and practice, as a basis for the elaboration of recommendations by the Working Group.

23. Some representatives stated that their national legislation on implementing article 17 of the 1988 Convention contained criteria by which vessels on the high seas were assimilated to vessels without nationality. Other representatives felt that those criteria could not be contrary to those of the international law of the sea.

24. There was support for the Working Group recommending the establishment of standard procedures and guidelines for boarding vessels suspected of drug trafficking. It was pointed out that currently there were no established procedures acceptable to all States regarding the boarding of vessels suspected of illicit traffic on the high seas. It was felt that the adoption of standardized boarding procedures, guidelines and safeguards related to the boarding of vessels suspected of being engaged in illicit maritime drug traffic would ensure predictability and allay concerns regarding liability. It was also stated, however, that due consideration should likewise be given to the examination of requests to board such vessels on a case-by-case basis, with the flag State giving its consent to board on the merit of each case.

25. With regard to the content of the request made to the flag State, there was agreement that it should cover two main issues: first, a request for confirmation by the flag State that the vessel was flying its flag; and, secondly, a request for authorization to board the suspected vessel. It was considered important for the flag State to acknowledge expeditiously requests to board one of its vessels on the high seas, as well as to confirm whether or not the vessel was flying its flag, regardless of the time required by the flag State to process the request to board one of its vessels.

26. The Working Group discussed the time-frame within which a flag State should reply to a request to board its vessels on the high seas. It was pointed out that the Council of Europe Agreement stipulated that the flag State should reply to a request to board a vessel within four hours of receipt of the request. In view of the technical limitations of several Governments and the geographical location and the circumstances of each case, the Working Group decided to take a flexible approach in considering the issue. Several representatives emphasized that it was important for the flag State to reply expeditiously, particularly where motherships were involved. It was pointed out that the time taken by a flag State to reply to a request to board a vessel flying its flag would depend on the grounds given in the request for boarding.

27. In order not to interfere with international trade and to target suspicious vessels more effectively, it was suggested that the Working Group should formulate guidelines to facilitate the identification of the types of vessels where boarding outside the territorial sea was necessary. Some representatives stated that the publication of standard procedures might alert drug traffickers to the likely scope and manner of boarding. In their view, it was also preferable not to specify which category of vessels would be boarded. In cases where vessels were boarded on the high seas, it was stressed that the elements contained in article 17, paragraph 5, of the 1988 Convention should be adhered to and that the intervening State must take special

care to guarantee the safety, physical and moral integrity of persons found on board, as well as the security of the cargo.

28. The Working Group dealt with the issue of the responsibility of States at the time of boarding. It was pointed out that article 17 of the 1988 Convention did not indicate whether the law of the intervening State or of the flag State should prevail in implementing the provisions foreseen therein. There was agreement in principle that the costs of boarding should be borne by the intervening State. The Working Group, in outlining the responsibilities and liability of the various States concerned with the boarding operation, considered it important to establish the responsibility of the flag State for its vessels, particularly when a State had boarded a vessel at its request. One representative stated that the issue of state responsibility should not be considered by the Working Group.

29. The Working Group recognized the right for third parties to seek compensation for loss or damages, particularly as a result of undue delay or action taken against their vessels on unsubstantiated grounds. It was suggested that the Working Group should consider recommending the basis on which compensation should be paid to third parties as a result of unjustified boarding on the high seas or damages incurred, as well as other factors, such as the applicable law and the competent courts.

30. The Working Group considered articles 25 (concerning costs) and 26 (concerning damages) of the Council of Europe Agreement on Illicit Traffic by Sea and article 110 (concerning the right of visit), paragraph 3, of the 1982 United Nations Convention of the Law of the Sea, in drafting principles and recommendations regarding costs and damages.

31. Some representatives were of the view that the Working Group should focus its work on examining conditions that would preclude unjustified boarding on the high seas, particularly the gathering and expeditious transmission of reliable information.

32. Quality information was emphasized as a vital component in preventing unwarranted boarding. Several representatives stressed that gathering and assessing profiles and sharing information concerning vessels suspected of being engaged in illicit drug traffic were important to facilitating the detection of such vessels. On speeding the response to requests to board vessels involved in illicit drug traffic on the high seas, some speakers said that it would be useful for the Working Group to agree on the criteria for determining or the definitions of "suspicious vessels" and "reasonable grounds" for boarding. Other speakers did not share that opinion and did not believe that the Working Group needed to discuss such criteria.

33. The importance of controlled delivery as a technique to facilitate the dismantling of organized drug syndicates involved in the illicit drug traffic by sea was emphasized. The view was expressed that consideration should be given to surveillance of vessels and the increased use of controlled delivery to target the crime syndicates involved, rather than focusing on boarding operations that often resulted only in the seizure of illicit drugs. Several representatives stressed the need to improve the detection capabilities of law enforcement authorities in their countries.

34. Several representatives stated that their Governments had benefited greatly from the involvement of commercial carriers, manning agencies, shipowners and port authorities in combating illicit traffic, particularly through memoranda of understanding with commercial carriers and trading associations at the national and international levels. The Working Group was informed of the positive results achieved in countering illicit drug traffic through closer cooperation between Governments at the bilateral and regional levels. Particular reference was made to the innovative arrangements for drug law enforcement cooperation between the Governments of the Bahamas and the United States, between the Governments of Italy and Spain and between the Governments of the Netherlands and the United Kingdom. Reference was also made to ROCRAM, the operating network of maritime authorities in South American countries and in Mexico and Panama.

35. At its second session, the Working Group on maritime cooperation examined recommendations that it had elaborated in the course of its first session. The recommendations covered the exchange of information, technical assistance, legal issues and procedures for implementation. Under legal issues, the Working Group considered recommendations relating to the exercise of jurisdiction over vessels; reporting mechanisms; drug trafficking by vessels without nationality; boarding, search and related procedures; responsibility of flag States; and costs and damages. The procedures for implementation covered controlled delivery, involvement of commercial carriers and development of a network of regional and bilateral agreements.

36. Following discussions in plenary, as well as informal consultations, the Working Group adopted the recommendations contained in the present report and agreed to submit them to the Commission on Narcotic Drugs at its thirty-eighth session, in accordance with Commission resolution 9 (XXXVII). The recommendations would assist Governments in adopting laws and regulations to implement article 17 of the 1988 Convention.

37. The representative of China expressed his Government's reservations concerning recommendation 16. The representative of Malaysia withdrew his proposal concerning the exercise of jurisdiction by the coastal States over vessels in the territorial sea, a matter that the Working Group considered not to be within its mandate.

38. Because of time constraints, the Working Group was not in a position to develop, in specific terms, a comprehensive set of principles as requested by the Commission in its resolution 9 (XXXVII). There was agreement, however, that the recommendations adopted by the Working Group embodied general principles relating to the implementation of article 17 of the 1988 Convention. The Working Group considered that, should the Commission consider it essential for the general principles to be elaborated in addition to the recommendations already adopted, the Commission should examine the sequence and substance of the recommendations contained in the present report with a view to identifying such general principles. In this regard, the Commission's attention is drawn to the sequence of recommendations proposed by Spain, which the Working Group generally endorsed as a possible structure of the elements on general principles (see the annex to the present report).

Note

1/ Official Records of the Third United Nations Conference on the Law of the Sea (United Nations publication, Sales No. E.84.V.3).

Annex

POSSIBLE STRUCTURE OF THE ELEMENTS ON GENERAL PRINCIPLES RELATED TO MARITIME COOPERATION, AS PROPOSED BY SPAIN

I. GENERAL PRINCIPLES (the following paragraphs of the recommendations, to appear in the sequence indicated):

1. Paragraph 11
2. Paragraph 12
3. Paragraph 19
4. Paragraph 14
5. Paragraph 25
6. Paragraph 24
7. Paragraph 23

II. EXCHANGE OF INFORMATION

III. TECHNICAL ASSISTANCE

IV. LEGAL ISSUES